



Sen. Gary Forby

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09400SB1267sam001

LRB094 04933 WGH 46559 a

1 AMENDMENT TO SENATE BILL 1267

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1267 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Safety Inspection and Education Act is  
5 amended by changing Section 0.2, changing and resectioning  
6 Section 2, and adding Sections 2.2, 2.5, 2.6, 2.7, and 2.9 as  
7 follows:

8 (820 ILCS 220/.02) (from Ch. 48, par. 59.02)

9 Sec. .02. Definitions. As used in this Act:

10 "Department" means the Department of Labor.

11 "Director" means the Director of Labor.

12 "Division" means the Division of Safety Inspection and  
13 Education of the Department of Labor.

14 (Source: P.A. 87-245.)

15 (820 ILCS 220/2) (from 820 ILCS 220/2, in part)

16 Sec. 2. Powers and duties; inspections.

17 (a) The Director of Labor shall enforce the occupational  
18 safety and health standards and rules promulgated under the  
19 Health and Safety Act and any occupational health and safety  
20 laws relating to inspection of places of employment, and shall  
21 visit and inspect, as often as practicable, the places of  
22 employment covered by this Act.

23 (b) The Director of Labor or his or her authorized

1 representatives upon presenting appropriate credentials to the  
2 owner, operator or agent in charge is authorized to have the  
3 right of entry and inspections of all places of all employment  
4 in the State as follows:

5 (1) ~~1.~~ To enter without delay and at reasonable times  
6 any factory, plant, establishment, construction site, or  
7 other area, workplace or environment where work is  
8 performed by an employee of a public ~~an~~ employer in order  
9 to enforce such occupational safety and health standards.

10 (2) If the public employer refuses entry upon being  
11 presented proper credentials or allows entry but then  
12 refuses to permit or hinders the inspection in some way,  
13 the inspector shall leave the premises and immediately  
14 report the refusal to authorized management. Authorized  
15 management shall notify the Director of Labor to initiate  
16 the compulsory legal process or obtain a warrant for entry,  
17 or both.

18 (3) ~~2.~~ To inspect and investigate during regular  
19 working hours and at other reasonable times, and within  
20 reasonable limits and in a reasonable manner, any such  
21 place of employment and all pertinent conditions,  
22 structures, machines, apparatus, devices, equipment, and  
23 materials therein, and to question privately any such  
24 employer, owner, operator, agent or employee.

25 (4) ~~3.~~ The owner, operator, manager or lessees of any  
26 place affected by the provisions of this Act and his or her  
27 agent, superintendent, subordinate or employee, and any  
28 employer affected by such provisions shall when requested  
29 by the Division of Safety Inspection and Education, or any  
30 duly authorized agent thereof, furnish any information in  
31 his or her possession or under his control which the  
32 Department of Labor is authorized to require, and shall  
33 answer truthfully all questions required to be put to him,  
34 and shall cooperate in the making of a proper inspection.

1           (5) A person who gives advance notice of an inspection  
2           to be conducted under the authority of this Act without  
3           authority from the Director of Labor, or his or her  
4           authorized representative, commits a Class B misdemeanor.

5           (6) 4. Subject to regulations issued by the Director of  
6           Labor, a representative of the employer and a  
7           representative authorized by his or her employees shall be  
8           given an opportunity to accompany the Director of Labor or  
9           his or her authorized representative during the physical  
10          inspection of any workplace under this Section for the  
11          purpose of aiding such inspection. Where there is no  
12          authorized employee representative the Director of Labor  
13          or his or her authorized agent shall consult with a  
14          reasonable number of employees concerning matters of  
15          health and safety in the workplace.

16          (7) (A) Whenever and as soon as an inspector concludes  
17          that an imminent danger exists in any place of employment,  
18          the inspector shall inform the affected employees or their  
19          authorized representatives and employers of the danger and  
20          that the inspector is recommending to the Director of Labor  
21          that relief be sought.

22          (B) Whenever the Director is of the opinion that  
23          imminent danger exists in the working conditions of any  
24          public employee in this State, which condition may  
25          reasonably be expected to cause death or serious physical  
26          harm, the Director may file a complaint in the circuit  
27          court for appropriate relief against an employer and  
28          employee, including an order directing the employer or  
29          employee to cease and desist from the practice creating the  
30          imminent danger and to obtain immediate abatement of the  
31          hazard.

32          (C) If the Director of Labor arbitrarily or  
33          capriciously fails to seek relief under this Section, any  
34          employee who may be injured by reason of such failure, or

1       the representative of the employee, may bring an action  
2       against the Director of Labor in the circuit court for the  
3       circuit in which the imminent danger is alleged to exist or  
4       the employer has his or her principal office, for relief by  
5       mandamus to compel the Director of Labor to seek such an  
6       order and for such further relief as may be appropriate.

7       (Source: P.A. 86-820; 87-245.)

8       (820 ILCS 220/2.1 new) (from 820 ILCS 220/2, in part)

9       Sec. 2.1. Complaint inspection procedures.

10       (a) ~~5.~~ Any employees or representatives of employees who  
11       believe that a violation of a safety or health standard exists  
12       or that an imminent danger exists, may request an inspection by  
13       submitting a written complaint to the Director of Labor or his  
14       or her authorized representative setting forth with reasonable  
15       particularity the grounds for the complaint, and signed by the  
16       employees or representative of employees.

17       (b) If the Director of Labor or the Director's authorized  
18       representative determines there are no reasonable grounds to  
19       believe that a violation or danger exists, he or she shall  
20       notify the employees or representatives of the employees in  
21       writing of such determination.

22       (c) If, upon receipt of such complaint, the Director of  
23       Labor or his or her authorized representative determines there  
24       are reasonable grounds to believe that such violation or danger  
25       exists, he or she shall make a special inspection of the  
26       workplace in accordance with the provisions of this Act as soon  
27       as practicable, to determine if such violation or danger  
28       exists.

29       (d) A copy of the complaint shall be provided the employer  
30       or his or her agent by the Director of Labor or his or her  
31       authorized representative at the time of inspection, except  
32       that, upon the request of the person making such complaint, his  
33       name and the name of individual employees referred to therein,

1 shall not appear in such copy or on any record published,  
2 released, or made available by the Director of Labor or his or  
3 her authorized representative.

4 (e) Nonformal complaints shall be handled by an authorized  
5 representative of the Director of Labor and, based upon the  
6 severity and legitimacy of the complaint, the authorized  
7 representative of the Director of Labor shall either schedule a  
8 complaint inspection or issue a letter to the public employer  
9 stating the concern. ~~If upon receipt of such complaint, the~~  
10 ~~Director of Labor or his or her authorized representative~~  
11 ~~determines there are reasonable grounds to believe that such~~  
12 ~~violation or danger exists, he or she shall make a special~~  
13 ~~inspection of the workplace in accordance with the provisions~~  
14 ~~of this Act as soon as practicable, to determine if such~~  
15 ~~violation or danger exists. If the Director of Labor or his or~~  
16 ~~her authorized representative determines there are no~~  
17 ~~reasonable grounds to believe that a violation or danger~~  
18 ~~exists, he or she shall notify the employees or representatives~~  
19 ~~of the employees in writing of such determination.~~

20 ~~(c) Any person who shall give advance notice of any~~  
21 ~~inspection to be conducted under the authority of this Act~~  
22 ~~without authority from the Director of Labor, or his or her~~  
23 ~~authorized representative, upon conviction, shall be guilty of~~  
24 ~~a Class B misdemeanor.~~

25 (Source: P.A. 86-820; 87-245.)

26 (820 ILCS 220/2.2 new)

27 Sec. 2.2. Discrimination prohibited.

28 (a) A person may not discharge or in any way discriminate  
29 against any employee because the employee has filed a complaint  
30 or instituted or caused to be instituted any proceeding under  
31 or related to this Act or the Health and Safety Act or has  
32 testified or is about to testify in any such proceeding or  
33 because of the exercise by the employee on behalf of himself or

1 herself or others of any right afforded by this Act or the  
2 Health and Safety Act.

3 (b) Any employee who believes that he or she has been  
4 discharged or otherwise discriminated against by any person in  
5 violation of this Section may, within 30 calendar days after  
6 the violation occurs, file a complaint with the Director of  
7 Labor alleging the discrimination. Upon request, the Director  
8 of Labor shall withhold the name of the complainant from the  
9 employer. Upon receipt of the complaint, the Director of Labor  
10 shall cause such investigation to be made as the Director deems  
11 appropriate. If, after the investigation, the Director of Labor  
12 determines that the provisions of this Section have been  
13 violated, the Director shall, within 120 days after receipt of  
14 the complaint, bring an action in the circuit court for  
15 appropriate relief, including rehiring or reinstatement of the  
16 employee to his or her former position with back pay, after  
17 taking into account any interim earnings of the employee.

18 (c) Within 90 days of the receipt of a complaint filed  
19 under this Section, the Director of Labor shall notify the  
20 complainant of the Director's determination under subsection  
21 (b) of this Section.

22 (820 ILCS 220/2.3 new) (from 820 ILCS 220/2, in part)

23 Sec. 2.3. Methods of compelling compliance.

24 (a) Citations. ~~(d) 1.~~

25 (1) If, upon inspection or investigation, the Director  
26 of Labor or his or her authorized representative believes  
27 that an employer has violated a requirement of ~~Section 3 of~~  
28 the Health and Safety Act, or a standard, rule, regulation  
29 or order promulgated pursuant to this Act or the Health and  
30 Safety Act, he or she shall with reasonable promptness  
31 issue a citation to the employer. Each citation shall be in  
32 writing; describe with particularity the nature of the  
33 violation and include a reference to the provision of the

1 Act, standard, rule, regulation, or order alleged to have  
2 been violated; and fix a reasonable time for the abatement  
3 of the violation.

4 (2) The Director of Labor may prescribe procedures for  
5 the issuance of a notice of de minimis violations which  
6 have no direct or immediate relationship to safety or  
7 health.

8 (3) Each citation issued under this Section, or a copy  
9 or copies thereof, shall be prominently posted as  
10 prescribed in regulations issued by the Director of Labor  
11 at or near the place at which the violation occurred.

12 (4) ~~2.~~ Citations shall be served on the employer,  
13 owner, operator, manager, or agent by delivering an exact  
14 copy to the person upon whom the service is to be had, or  
15 by leaving a copy at his or her usual place of business or  
16 abode, or by sending a copy thereof by registered mail to  
17 his place of business.

18 ~~3. Each citation issued under this Section, or a copy~~  
19 ~~or copies thereof, shall be prominently posted as~~  
20 ~~prescribed in regulations issued by the Director of Labor~~  
21 ~~at or near the place the violation occurred.~~

22 (5) ~~4.~~ No citation may be issued under this Section  
23 after the expiration of 6 months following the occurrence  
24 of any violation.

25 (6) ~~5.~~ If, after an inspection, the Director of Labor  
26 issues a citation, he or she shall within 5 days after the  
27 issuance of the citation, notify the employer by certified  
28 mail of the penalty, if any, proposed to be assessed for  
29 the violation set forth in the citation.

30 (7) ~~6.~~ If the Director of Labor has reason to believe  
31 that an employer has failed to correct a violation for  
32 which a citation has been issued within the period  
33 permitted for its correction, the Director of Labor shall  
34 notify the employer by certified mail of such failure and

1 of the monetary penalty proposed to be assessed by reason  
2 of such failure.

3 (8) The public entity may submit in writing data  
4 relating to the abatement of a hazard to be considered by  
5 an authorized representative of the Director of Labor. The  
6 authorized representative of the Director of Labor shall  
7 notify the interested parties if such data will be used to  
8 modify an abatement order.

9 (b) Proposed violations.

10 (1) Civil penalties. ~~7.~~ Civil penalties under  
11 subparagraphs (A) through (E) ~~paragraphs A., B., C. and D.~~  
12 may be assessed by the Director of Labor as part of the  
13 citation procedure as follows:

14 (A) Any public employer who repeatedly violates  
15 the requirements of the Health and Safety Act or any  
16 standard, or rule, or order pursuant to that Act and  
17 this Act may be assessed a civil penalty of not more  
18 than \$10,000.

19 ~~A. Any employer who has received a citation for~~  
20 ~~violations of any standard, or rule, or order not of a~~  
21 ~~serious nature may be assessed a civil penalty of up to~~  
22 ~~\$1,000 for each such violation.~~

23 (B) ~~B.~~ Any employer who has received a citation for  
24 a serious violation of the requirements of ~~Section 3~~ of  
25 the Health and Safety Act or any standard, or rule, or  
26 order pursuant to that Act and this Act shall be  
27 assessed a civil penalty up to \$1,000 for each such  
28 violation.

29 For purposes of this Section, a serious violation  
30 shall be deemed to exist in a place of employment if  
31 there is a substantial probability that death or  
32 serious physical harm could result from a condition  
33 which exists, or from one or more practices, means,  
34 methods, operations, or processes which have been

1           adopted or are in use in such place of employment  
2           unless the employer did not know and could not, with  
3           the exercise of reasonable diligence, have known of the  
4           presence of the violation as specifically determined.

5           (C) Any public employer who has received a citation  
6           for violations of any standard, or rule, or order not  
7           of a serious nature may be assessed a civil penalty of  
8           up to \$1,000 for each such violation.

9           (D) ~~C.~~ Any public employer who fails to correct a  
10           violation for which a citation has been issued within  
11           the period permitted may be assessed a civil penalty of  
12           up to \$1,000 for each day the violation continues.

13           (E) Any public employer who intentionally violates  
14           the requirements of the Health and Safety Act or any  
15           standard, or rule, or order pursuant to this Act or  
16           demonstrates plain indifference to its requirements  
17           shall be issued a willful violation and may be assessed  
18           a civil penalty of not more than \$10,000.

19           (2) Criminal penalty. Any public employer who  
20           willfully violates any standard, rule, or order is guilty  
21           of a Class 4 felony if that violation causes death to any  
22           employee.

23           (3) Assessment and reduction of penalties. Any penalty  
24           may be reduced by the Director of Labor or the Director's  
25           authorized representative by as much as 95% depending upon  
26           the public employer's "good faith", "size of business", and  
27           "history of previous violations". Up to 60% reduction is  
28           permitted for size, up to 25% reduction is permitted for  
29           for good faith, and up to 10% reduction is permitted for  
30           history.

31           ~~D. Any employer who willfully or repeatedly violates the~~  
32           ~~requirements of Section 3 of the Health and Safety Act or any~~  
33           ~~standard, or rule, or order pursuant to that Act and this Act~~  
34           ~~may be assessed a civil penalty of not more than \$10,000.~~

1       ~~For purposes of this Section, a serious violation shall be~~  
2 ~~deemed to exist in a place of employment if there is a~~  
3 ~~substantial probability that death or serious physical harm~~  
4 ~~could result from a condition which exists, or from one or more~~  
5 ~~practices, means, methods, operations, or processes which have~~  
6 ~~been adopted or are in use in such place of employment unless~~  
7 ~~the employer did not know and could not, with the exercise of~~  
8 ~~reasonable diligence, have known of the presence of the~~  
9 ~~violation as specifically determined.~~

10       (Source: P.A. 86-820; 87-245.)

11               (820 ILCS 220/2.4 new)   (from 820 ILCS 220/2, in part)

12       Sec. 2.4. Contested cases.

13       (a) ~~§.~~ An employer, firm or corporation, or an agent,  
14 manager or superintendent or a person for himself or herself or  
15 for other such person, firm or corporation, after receiving a  
16 citation, a proposed assessment of penalty, or a notification  
17 of failure to correct violation from the Director of Labor or  
18 his or her authorized agent that he or she is in violation of  
19 this Act, or of any occupational safety or health standard or  
20 rule, may within 15 working days from receipt of the notice of  
21 citation or penalty request in writing a hearing before the  
22 Director for an appeal from the citation order, notice of  
23 penalty, or abatement period.

24       (b) Any employee or representative of an employee may  
25 within 15 working days of the issuance of a citation file a  
26 request in writing for a hearing before the Director for an  
27 appeal from the citation on the ground that the period of time  
28 fixed in the citation for the abatement of the violation is  
29 unreasonable.

30       (c) (1) The Director shall schedule a hearing within 15  
31 calendar days after receipt of such request for an appeal from  
32 the citation order and shall notify all interested parties of  
33 such hearing. Such hearing shall be held no later than 45

1 calendar days after the date of receipt of such appeal request.

2 (2) The Director shall afford a hearing to the employer or  
3 his or her representatives, at which hearing the employer shall  
4 state his or her objections to such citation and provide  
5 evidence why such citation shall not stand as entered. The  
6 Director of Labor or his or her representative shall be given  
7 the opportunity to state his or her reasons for entering such  
8 violation citation. Affected employees shall be provided an  
9 opportunity to participate as parties to hearings under the  
10 rules of procedure prescribed by the Director.

11 (3) The Director, in consideration of the evidence  
12 presented at the formal hearing, shall in accordance with his  
13 rules enter a final decision and order no later than 15  
14 calendar days after such hearing affirming, modifying or  
15 vacating the Director's citation or proposed penalty, or  
16 directing other appropriate relief.

17 (4) An informal review may be conducted by an authorized  
18 representative of the Director of Labor who is authorized to  
19 change abatement dates, to reclassify violations (such as  
20 willful to serious, serious to other-than-serious), and to  
21 modify or withdraw a penalty, a citation, or a citation item if  
22 the employer presents evidence during the informal conference  
23 which convinces the authorized representative of the Director  
24 of Labor that the changes are justified.

25 (5) Appeal.

26 (A) Any party adversely affected by a final violation  
27 order or determination of the Director may obtain judicial  
28 review by filing a complaint for review within 35 days  
29 after the entry of the order or other final action  
30 complained of, pursuant to the provisions of the  
31 Administrative Review Law, all amendments and  
32 modifications thereof, and the rules adopted pursuant  
33 thereto.

34 (B) If no appeal is taken within 35 days the order of

1 the Director shall become final.

2 (C) Judicial reviews filed under this Section shall be  
3 heard expeditiously.

4 (6) The Director of Labor has the power:

5 (A) To issue subpoenas for and compel the attendance of  
6 witnesses and the production of pertinent books, papers,  
7 documents or other evidence.

8 (B) To hear testimony and receive evidence and to take  
9 or cause to be taken, depositions of witnesses residing  
10 within or without this State in the manner prescribed by  
11 law for depositions in civil cases in the circuit court.  
12 Subpoenas and commissions to take testimony shall be under  
13 seal of the Director of Labor.

14 Service of subpoenas may be made by any sheriff or any  
15 other person. The circuit court for the county where any  
16 hearing is pending, upon application of the Director of Labor,  
17 may, in the court's discretion, compel the attendance of  
18 witnesses, the production of pertinent books, papers, records,  
19 or documents and the giving of testimony before the Director of  
20 Labor by an attachment proceeding, as for contempt, in the same  
21 manner as the production of evidence may be compelled before  
22 the court.

23 ~~9. A. No person shall discharge or in any way discriminate~~  
24 ~~against any employee because such employee has filed a~~  
25 ~~complaint or instituted or caused to be instituted any~~  
26 ~~proceeding under or related to this Act or the Health and~~  
27 ~~Safety Act or has testified or is about to testify in any such~~  
28 ~~proceeding or because of the exercise by such employee on~~  
29 ~~behalf of himself or herself or others of any right afforded by~~  
30 ~~this Act or the Health and Safety Act.~~

31 ~~B. Any employee who believes that he or she has been~~  
32 ~~discharged or otherwise discriminated against by any person in~~  
33 ~~violation of this Section may, within 30 calendar days after~~  
34 ~~such violation occurs, file a complaint with the Director of~~

1 ~~Labor alleging such discrimination. Upon request, the Director~~  
2 ~~of Labor shall withhold the name of the complainant from the~~  
3 ~~employer. Upon receipt of such complaint, the Director of Labor~~  
4 ~~shall cause such investigation to be made as he or she deems~~  
5 ~~appropriate. If after such investigation, the Director of Labor~~  
6 ~~determines that the provisions of this Section have been~~  
7 ~~violated, he or she shall, within 120 days after receipt of the~~  
8 ~~complaint, bring an action in the circuit court for appropriate~~  
9 ~~relief, including rehiring, or reinstatement of the employee to~~  
10 ~~his or her former position with back pay, after taking into~~  
11 ~~account any interim earnings of the employee.~~

12 ~~C. Within 90 days of the receipt of a complaint filed under~~  
13 ~~this Section the Director of Labor shall notify the complainant~~  
14 ~~of his or her determination under subparagraph 9B. of this~~  
15 ~~Section.~~

16 ~~(c) Whenever the Director is of the opinion that imminent~~  
17 ~~danger exists in the working conditions of any employee in this~~  
18 ~~State, which condition can reasonably be expected to cause~~  
19 ~~death or serious physical harm, the Director may file a~~  
20 ~~complaint in the circuit court for appropriate relief against~~  
21 ~~an employer and employee, including an order directing the~~  
22 ~~employer or employee to cease and desist from the practice~~  
23 ~~creating the imminent danger.~~

24 ~~Whenever and as soon as an inspector concludes that an~~  
25 ~~imminent danger exists in any place of employment, he or she~~  
26 ~~shall inform the affected employees or their authorized~~  
27 ~~representatives and employers of the danger and that he or she~~  
28 ~~is recommending to the Director of Labor that relief be sought.~~

29 ~~If the Director of Labor arbitrarily or capriciously fails~~  
30 ~~to seek relief under this Section, any employee who may be~~  
31 ~~injured by reason of such failure, or the representative of~~  
32 ~~such employees, may bring an action against the Director of~~  
33 ~~Labor in the circuit court for the circuit in which the~~  
34 ~~imminent danger is alleged to exist or the employer has his or~~

1 ~~her principal office, for relief by mandamus to compel the~~  
2 ~~Director of Labor to seek such an order and for such further~~  
3 ~~relief as may be appropriate.~~

4 (Source: P.A. 86-820; 87-245.)

5 (820 ILCS 220/2.5 new)

6 Sec. 2.5. Employee access to information.

7 (a) The Director of Labor shall issue regulations requiring  
8 employers to maintain accurate records of employee exposures to  
9 potentially toxic materials or harmful physical agents which  
10 are required to be monitored or measured under the Health and  
11 Safety Act.

12 (1) The regulations shall provide employees or their  
13 representatives with an opportunity to observe such  
14 monitoring or measuring, and to have access to the records  
15 thereof.

16 (2) The regulations shall also make appropriate  
17 provisions for each employee or former employee to have  
18 access to such records as will indicate his or her own  
19 exposure to toxic materials or harmful physical agents.

20 (3) Each employer shall promptly notify any employee  
21 who has been or is being exposed to toxic materials or  
22 harmful physical agents in concentrations or at levels  
23 which exceed those prescribed by an occupational safety and  
24 health standard and shall inform any employee who is being  
25 thus exposed of the corrective action being taken.

26 (b) The Director of Labor shall also issue regulations  
27 requiring that employers, through posting of notices or other  
28 appropriate means, keep their employees informed of their  
29 protections and obligations under these Acts, including the  
30 provisions of applicable standards.

31 (820 ILCS 220/2.6 new)

32 Sec. 2.6. Other prohibited actions and sanctions.

1       (a) Advance notice. A person who gives advance notice of  
2 any inspection to be conducted under the authority of this Act  
3 without authority from the Director of Labor, or his or her  
4 authorized representative, commits a Class B misdemeanor.

5       (b) False statements. A person who knowingly makes a false  
6 statement, representation, or certification in any  
7 application, record, report, plan, or other document required  
8 pursuant to this Act commits a Class 4 felony.

9       (c) Violation of posting requirements. A public employer  
10 who violates any of the required posting requirements is  
11 subject to the following citations and proposed penalty  
12 structure:

13           (1) Job Safety & Health Poster: an other-than-serious  
14 citation with a proposed penalty of \$1,000.

15           (2) Annual Summary of Injuries/Illnesses: an  
16 other-than-serious citation and a proposed penalty of  
17 \$1,000 even if there are no recordable injuries or  
18 illnesses.

19           (3) Citation: an other-than serious citation and a  
20 proposed penalty of \$1,000.

21       (d) All information reported to or otherwise obtained by  
22 the Director of Labor or the Director's authorized  
23 representative in connection with any inspection or proceeding  
24 under this Act or the Health and Safety Act which contains or  
25 might reveal a trade secret shall be considered confidential,  
26 except that such information may be disclosed confidentially to  
27 other officers or employees concerned with carrying out this  
28 Act or the Health and Safety Act or when relevant to any  
29 proceeding under this Act. In any such proceeding, the Director  
30 of Labor or the court shall issue such orders as may be  
31 appropriate, including the impoundment of files or portions of  
32 files, to protect the confidentiality of trade secrets. A  
33 person who violates the confidentiality of trade secrets  
34 commits a Class B misdemeanor.

1 (820 ILCS 220/2.7 new)

2 Sec. 2.7. Inspection scheduling system.

3 (a) In general, the priority of accomplishment and  
4 assignment of staff resources for inspection categories shall  
5 be as follows:

6 (1) Imminent Danger.

7 (2) Fatality/Catastrophe Investigations.

8 (3) Complaints/Referrals Investigation.

9 (4) Programmed Inspections - general, advisory,  
10 monitoring and follow-up.

11 (b) The priority for assignment of staff resources for  
12 hazard categories shall be the responsibility of an authorized  
13 representative of the Director of Labor based upon the  
14 inspection category, the type of hazard, the perceived severity  
15 of hazard, and the availability of resources.

16 (820 ILCS 220/2.8 new) (from 820 ILCS 220/2, in part)

17 Sec. 2.8. Voluntary compliance program.

18 ~~(f) The Department through the employees of the Division~~  
19 ~~shall foster and promote safety practices.~~

20 (a) ~~(g)~~ The Department shall encourage employers and  
21 organizations and groups of employees to institute and maintain  
22 safety education programs for employees and promote the  
23 observation of safety practices.

24 (b) The Department shall provide and conduct qualified and  
25 quality educational programs specifically designed to meet the  
26 regulatory requirements and the needs of the public employer.

27 (c) The educational programs and advisory inspections  
28 shall be scheduled secondary to the unprogrammed inspections by  
29 priority.

30 (d) Regular public information programs shall be conducted  
31 to inform the public employers of changes to the regulations or  
32 updates as necessary.

1       (e) The Department shall provide support services for any  
2 public employer who needs assistance with the public employer's  
3 self-inspection programs. ~~The Department may furnish safety~~  
4 ~~education material and literature and may advise and cooperate~~  
5 ~~with employers and organizations and groups of employees in the~~  
6 ~~conduct of safety education programs and in the observation of~~  
7 ~~safety practices. The Department shall through the Division~~  
8 ~~enforce the provisions of this Act, and any other law relating~~  
9 ~~to the inspection of places of employment in the State.~~

10       (Source: P.A. 86-820; 87-245.)

11               (820 ILCS 220/2.9 new)

12       Sec. 2.9. Laboratory services. The Department shall enlist  
13 the services of certified laboratories to provide analysis and  
14 interpretation of results via contractual services.

15               (820 ILCS 220/2.10 new) (from 820 ILCS 220/2, in part)

16       Sec. 2.10. Adoption of rules; designation of personnel to  
17 hear evidence in disputed matters.

18       (a) The Director of Labor shall adopt such rules and  
19 regulations as he or she may deem necessary to implement the  
20 provisions of this Act, including, but not limited to, rules  
21 and regulations dealing with: (1) the inspection of an  
22 employer's establishment and (2) the designation of proper  
23 parties, pleadings, notice, discovery, the issuance of  
24 subpoenas, transcripts, and oral argument.

25       ~~All information reported to or otherwise obtained by the~~  
26 ~~Director of Labor or his or her authorized representative in~~  
27 ~~connection with any inspection or proceeding under this Act or~~  
28 ~~the Health and Safety Act, which contains or might reveal a~~  
29 ~~trade secret shall be considered confidential, except that such~~  
30 ~~information may be disclosed confidentially to other officers~~  
31 ~~or employees concerned with carrying out this Act or the Health~~  
32 ~~and Safety Act or when relevant to any proceeding under this~~

1 ~~Act. In any such proceeding, the Director of Labor or the court~~  
2 ~~shall issue such orders as may be appropriate, including the~~  
3 ~~impoundment of files, or portions of files, to protect the~~  
4 ~~confidentiality of trade secrets.~~

5 ~~Any person who shall violate the confidentiality of trade~~  
6 ~~secrets shall be guilty of a Class B misdemeanor.~~

7 (b) ~~The Director of Labor may designate personnel to hear~~  
8 ~~evidence in disputed matters.~~

9 ~~(h) Any employer who willfully violates any standard, rule~~  
10 ~~or order, if that violation caused death to any employee, shall~~  
11 ~~be guilty of a Class 4 felony.~~

12 ~~(i) Whoever knowingly makes a false statement,~~  
13 ~~representation, or certification in any application, record,~~  
14 ~~report, plan or other document required pursuant to this Act,~~  
15 ~~shall be guilty of a Class 4 felony.~~

16 ~~(j) The Director of Labor shall also issue regulations~~  
17 ~~requiring that employers, through posting of notices or other~~  
18 ~~appropriate means, keep their employees informed of their~~  
19 ~~protections and obligations under these Acts, including the~~  
20 ~~provisions of applicable standards.~~

21 ~~(k) The Director of Labor shall issue regulations requiring~~  
22 ~~employers to maintain accurate records of employee exposures to~~  
23 ~~potentially toxic material or harmful physical agents which are~~  
24 ~~required to be monitored or measured under the Health and~~  
25 ~~Safety Act. Such regulations shall provide employees or their~~  
26 ~~representatives with an opportunity to observe such monitoring~~  
27 ~~or measuring, and to have access to the records thereof. Such~~  
28 ~~regulations shall also make appropriate provisions for each~~  
29 ~~employee or former employee to have access to such records as~~  
30 ~~will indicate his or her own exposure to toxic materials or~~  
31 ~~harmful physical agents. Each employer shall promptly notify~~  
32 ~~any employee who has been or is being exposed to toxic~~  
33 ~~materials or harmful physical agents in concentrations or at~~  
34 ~~levels which exceed those prescribed by an Illinois~~

1 ~~occupational safety and health standard and shall inform any~~  
2 ~~employee who is being thus exposed of the corrective action~~  
3 ~~being taken.~~

4 (Source: P.A. 86-820; 87-245.)

5 Section 10. The Health and Safety Act is amended by  
6 changing Section 2 and changing and resectioning Section 4 as  
7 follows:

8 (820 ILCS 225/2) (from Ch. 48, par. 137.2)

9 Sec. 2.

10 This Act shall apply to all public employers engaged in any  
11 occupation, business or enterprise in this State, and their  
12 employees, including the State of Illinois and its employees  
13 and all political subdivisions and its employees, except that  
14 nothing in this Act shall apply to working conditions of  
15 employees with respect to which Federal agencies, and State  
16 agencies acting under Section 274 of the Atomic Energy Act of  
17 1954, as amended (42 U.S.C. 2021), exercise statutory authority  
18 to prescribe or enforce standards or regulations affecting  
19 occupational safety and health. Any regulations in excess of  
20 applicable Federal standards shall, before being promulgated,  
21 be the subject of hearings as required by this Act.

22 (Source: P.A. 78-867.)

23 (820 ILCS 225/4) (from 820 ILCS 225/4, in part)

24 Sec. 4. Records and reports; work-related deaths,  
25 injuries, and illnesses.

26 (a) The Director shall prescribe rules requiring employers  
27 to maintain accurate records of, and to make reports on,  
28 work-related deaths, injuries and illnesses, other than minor  
29 injuries requiring only first aid treatment which do not  
30 involve medical treatment, loss of consciousness, restriction  
31 of work or motion, or transfer to another job. Such rules shall

1 specifically include all of the reporting provisions of Section  
2 6 of the Workers' Compensation Act and Section 6 of the  
3 Workers' Occupational Diseases Act.

4 (b) Such records shall be available to any State agency  
5 requiring such information.

6 (c) All reports filed hereunder shall be confidential and  
7 any person having access to such records filed with the  
8 Director as herein required, who shall release any information  
9 therein contained including the names or otherwise identify any  
10 persons sustaining injuries or disabilities, or give access to  
11 such information to any unauthorized person, shall be subject  
12 to discipline or discharge, and in addition shall be guilty of  
13 a Class B misdemeanor.

14 (Source: P.A. 87-245.)

15 (820 ILCS 225/4.1 new) (from 820 ILCS 225/4, in part)

16 Sec. 4.1. Adoption of federal safety and health standards  
17 as rules.

18 (a) ~~(d)~~ All federal occupational safety and health  
19 standards which the United States Secretary of Labor has  
20 heretofore promulgated, modified or revoked in accordance with  
21 the Federal Occupational Safety and Health Act of 1970, shall  
22 be and are hereby made rules of the Director unless the  
23 Director shall make, promulgate, and publish an alternate rule  
24 at least as effective in providing safe and healthful  
25 employment and places of employment as a federal standard.  
26 Prior to the development and promulgation of alternate  
27 standards or the modification or revocation of existing  
28 standards, the Director must consider factual information  
29 including:

30 (1) Expert technical knowledge.

31 (2) Input from interested persons including employers,  
32 employees, recognized standards-producing organizations,  
33 and the public.

1       (b) All federal occupational safety and health standards  
2 which the United States Secretary of Labor shall hereafter  
3 promulgate, modify or revoke in accordance with the Federal  
4 Occupational Safety and Health Act of 1970 shall become the  
5 rules of the Department 6 months ~~60 days~~ after their federal  
6 effective date, unless there shall have been in effect in this  
7 State at the time of the promulgation, modification or  
8 revocation of such rule an alternate State rule at least as  
9 effective in providing safe and healthful employment and places  
10 of employment as a federal standard. However, such rule shall  
11 not become effective until the following requirements have been  
12 met:

13           (1) The Department shall within 45 days after the  
14 federal effective date of such rule, ~~publish in the~~  
15 ~~"Illinois Occupational Safety and Health Bulletin" the~~  
16 ~~provisions of such rule and in addition thereto shall~~ file  
17 with the office of the Secretary of State in Springfield,  
18 Illinois, a certified copy of such rule as provided in "The  
19 Illinois Administrative Procedure Act", approved August  
20 22, 1975, as amended; or

21           (2) In the event of the Department's failure to ~~publish~~  
22 ~~or~~ file a certified copy with the Secretary of State, any  
23 resident of the State of Illinois may upon 5 days written  
24 notice to the Director publish such rule in one or more  
25 newspapers of general circulation and file a certified copy  
26 thereof with the office of the Secretary of State in  
27 Springfield, Illinois, whereupon such rule shall become  
28 effective provided that in no event shall such effective  
29 date be less than 60 days after the federal effective date.

30       (c) The Director of Labor may promulgate emergency  
31 temporary standards or rules to take effect immediately by  
32 filing such rule or rules with the Illinois Secretary of State  
33 providing that the Director of Labor shall first expressly  
34 determine:

1           (1) that the employees are exposed to grave danger from  
2           exposure to substances or agents determined to be toxic or  
3           physically harmful or from new hazards; and

4           (2) that such emergency standard is necessary to  
5           protect employees from such danger.

6           The Director of Labor shall adopt emergency temporary  
7           standards promulgated by the federal Occupational Safety and  
8           Health Administration within 30 days of federal notice. Such  
9           temporary emergency standards shall be effective until  
10           superseded by a permanent standard but in no event for more  
11           than 6 months from the date of its publication. The publication  
12           of such temporary emergency standards shall be deemed to be a  
13           petition to the Director of Labor for the promulgation of a  
14           permanent standard and shall be deemed to be filed with the  
15           Director of Labor on the date of its publication and the  
16           proceeding for the permanent promulgation of the rule shall be  
17           pursued in accordance with the provisions of this Act.

18           (d)(1) Any standard promulgated under this Act shall  
19           prescribe the use of labels or other appropriate forms of  
20           warning as are necessary to ensure that employees are apprised  
21           of all hazards to which they are exposed, relevant symptoms and  
22           appropriate emergency treatment, and proper conditions and  
23           precautions of safe use or exposure.

24           (2) Where appropriate, such standard shall also prescribe  
25           suitable protective equipment and control or technological  
26           procedures to be used in connection with such hazards and shall  
27           provide for monitoring or measuring employee exposure at such  
28           locations and intervals, and in such manner as may be necessary  
29           for the protection of employees.

30           (3) In addition, where appropriate, any such standard shall  
31           prescribe the type and frequency of medical examinations or  
32           other tests which shall be made available, by the employer or  
33           at the employer's cost, to employees exposed to such hazards in  
34           order to most effectively determine whether the health of such

1 employees is adversely affected by such exposure. The results  
2 of such examinations or tests shall be furnished by the  
3 employer only to the Department of Labor, or at the direction  
4 of the Department to authorized medical personnel and at the  
5 request of the employee to the employee's physician.

6 (4) The Director of Labor, in promulgating standards  
7 dealing with toxic materials or harmful physical agents under  
8 this subsection, shall set the standard which most adequately  
9 ensures, to the extent feasible, on the basis of the best  
10 available evidence, that no employee will suffer material  
11 impairment of health or functional capacity even if such  
12 employee has regular exposure to the hazard dealt with by such  
13 standard for the period of the employee's working life.

14 (5) Development of standards under this subsection shall be  
15 based upon research, demonstrations, experiments, and such  
16 other information as may be appropriate. In addition to the  
17 attainment of the highest degree of health and safety  
18 protection for the employee, other considerations shall be the  
19 latest available scientific data in the field, the feasibility  
20 of the standards, and experience gained under this and other  
21 health and safety laws. Whenever practicable, the standard  
22 promulgated shall be expressed in terms of objective criteria  
23 and of the performance desired.

24 (Source: P.A. 87-245.)

25 (820 ILCS 225/4.2 new) (from 820 ILCS 225/4, in part)

26 Sec. 4.2. Variances.

27 (a) The Director of Labor has the authority to grant either  
28 temporary or permanent variances from any of the State  
29 standards upon application by a public employer. Any variance  
30 from a State health and safety standard may have only future  
31 effect.

32 (b) ~~(e)~~ Any public employer may apply to the Director of  
33 Labor for a temporary order granting a variance from a standard

1 or any provision thereof promulgated under this Act.

2 (1) Such temporary order shall be granted only if the  
3 employer files an application which meets the requirements  
4 of ~~paragraph (1)~~ of this subsection (b) ~~(e)~~ and  
5 establishes:

6 (A) that he is unable to comply with a standard by  
7 its effective date because of unavailability of  
8 professional or technical personnel or of materials  
9 and equipment needed to come into compliance with the  
10 standard or because necessary construction or  
11 alteration of facilities cannot be completed by the  
12 effective date;

13 (B) that he is taking all available steps to  
14 safeguard his employees against the hazards covered by  
15 the standard; and

16 (C) that he has an effective program for coming  
17 into compliance with a standard as quickly as  
18 practicable.

19 Any temporary order issued under this Section shall  
20 prescribe the practices, means, methods, operations and  
21 processes which the employer must adopt and use while the  
22 order is in effect and state in detail his program for  
23 coming into compliance with the standard.

24 (2) Such a temporary order may be granted only after  
25 notice to employees and an opportunity for a hearing.  
26 However, in cases involving only documentary evidence in  
27 support of the application for a temporary variance and in  
28 which no objection is made or hearing requested by the  
29 employees or their representative, the Director of Labor  
30 may issue a temporary variance in accordance with this Act.

31 (3) In the event the application is contested or a  
32 hearing requested, the application shall be heard and  
33 determined by the Director.

34 (4) No order for a temporary variance may be in effect

1 for longer than the period needed by the employer to  
2 achieve compliance with the standard or one year, whichever  
3 is shorter, except that such an order may be renewed not  
4 more than twice, so long as the requirements of this  
5 paragraph are met and if an application for renewal is  
6 filed at least 90 days prior to the expiration date of the  
7 order. No interim renewal of an order may remain in effect  
8 for longer than 180 days.

9 (5) ~~(1)~~ An application for a temporary order as herein  
10 provided shall contain:

11 (A) ~~a.~~ a specification of the standard or portion  
12 thereof from which the employer seeks a variance;

13 (B) ~~b.~~ a representation by the employer, supported  
14 by representations from qualified persons having  
15 first-hand knowledge of the facts represented, that he  
16 is unable to comply with a standard or portion thereof  
17 and a detailed statement of the reasons therefor;

18 (C) ~~c.~~ a statement of the steps he has taken and  
19 will take (with specific dates) to protect employees  
20 against a hazard covered by the standard;

21 (D) a statement of when ~~d. the date by which~~ he  
22 expects to be able to comply with the standard ~~and what~~  
23 ~~steps he has taken and will take~~ (with dates specified)  
24 ~~to comply with the standard;~~ and

25 (E) ~~e.~~ a certification that he has informed his  
26 employees of the application by giving a copy thereof  
27 to their authorized representatives, posting a  
28 statement summarizing the application and specifying  
29 where employees may examine a copy of such application.

30 A description of how employees have been informed shall  
31 be contained in the certification. The information to  
32 employees shall also inform them of their right to petition  
33 the Director for a hearing.

34 (6) ~~(2)~~ The Director of Labor is authorized to grant a

1 variance from any standard or portion thereof whenever the  
2 Director of Labor determines that such variance is  
3 necessary to permit an employer to participate in an  
4 experiment approved by the Director of Labor designed to  
5 demonstrate or validate new and improved techniques to  
6 safeguard the health or safety of workers.

7 (c) ~~(f)~~ Any affected employer may apply to the Director of  
8 Labor for a rule or order for a permanent variance ~~other than a~~  
9 ~~temporary variance~~ from a standard promulgated under this Act.  
10 Affected employees shall be given notice of each such  
11 application and an opportunity to participate in a hearing. The  
12 Director of Labor shall issue such rule or order if he  
13 determines on the record, after opportunity for an inspection  
14 where appropriate and a hearing, that the proponent of the  
15 variance has demonstrated by a preponderance of the evidence  
16 that the conditions, practices, means, methods, operations or  
17 processes used or proposed to be used by an employer will  
18 provide employment and places of employment to his employees  
19 which are as safe and healthful as those which would prevail if  
20 he complied with the standard. The rule or order so issued  
21 shall prescribe the conditions the employer must maintain, and  
22 the practices, means, methods, operations, and processes which  
23 he must adopt and utilize to the extent they differ from the  
24 standard in question. Such a rule or order may be modified or  
25 revoked upon application by an employer, ~~or~~ employees, ~~or~~ by  
26 the Director of Labor on his own motion, in the manner  
27 prescribed for its issuance under this Section at any time  
28 after 6 months from its issuance.

29 ~~(g) The Director of Labor may promulgate emergency~~  
30 ~~temporary standards or rules to take effect immediately by~~  
31 ~~filing such rule or rules with the Illinois Secretary of State~~  
32 ~~and publishing them in the "Illinois Occupational Safety and~~  
33 ~~Health Bulletin" or if that is not available, in one or more~~  
34 ~~newspapers of general circulation providing that the Director~~

1 ~~of Labor shall first expressly determine (1) that the employees~~  
2 ~~are exposed to grave danger from exposure to substances or~~  
3 ~~agents determined to be toxic or physically harmful or from new~~  
4 ~~hazards, and (2) that such emergency standard is necessary to~~  
5 ~~protect employees from such danger.~~

6 ~~Such temporary emergency standard shall be effective until~~  
7 ~~superseded by a permanent standard but in no event for more~~  
8 ~~than 6 months from the date of its publication.~~

9 ~~The publication of such temporary emergency standard shall~~  
10 ~~be deemed to be a petition to the Director of Labor for the~~  
11 ~~promulgation of a permanent standard and shall be deemed to be~~  
12 ~~filed with the Director of Labor on the date of its publication~~  
13 ~~and the proceeding for the permanent promulgation of the rule~~  
14 ~~shall be pursued in accordance with the provisions of Section 7~~  
15 ~~of this Act.~~

16 ~~(h) Any standard promulgated under this Act shall prescribe~~  
17 ~~the use of labels or other appropriate forms of warning as are~~  
18 ~~necessary to insure that employees are apprised of all hazards~~  
19 ~~to which they are exposed, relevant symptoms and appropriate~~  
20 ~~emergency treatment, and proper conditions and precautions of~~  
21 ~~safe use or exposure. Where appropriate, such standard shall~~  
22 ~~also prescribe suitable protective equipment and control or~~  
23 ~~technological procedures to be used in connection with such~~  
24 ~~hazards and shall provide for a monitoring or measuring~~  
25 ~~employee exposure at such locations and intervals, and in such~~  
26 ~~manner as may be necessary for the protection of employees. In~~  
27 ~~addition, where appropriate, any such standard shall prescribe~~  
28 ~~the type and frequency of medical examinations or other tests~~  
29 ~~which shall be made available, by the employer or at his cost,~~  
30 ~~to employees exposed to such hazards in order to most~~  
31 ~~effectively determine whether the health of such employees is~~  
32 ~~adversely affected by such exposure. The results of such~~  
33 ~~examinations or tests shall be furnished by the employer only~~  
34 ~~to the Department of Labor, or at the direction of the~~

1 ~~Department to authorized medical personnel and at the request~~  
2 ~~of the employee to his physician. The Director of Labor, in~~  
3 ~~promulgating standards dealing with toxic materials or harmful~~  
4 ~~physical agents under this subsection, shall set the standard~~  
5 ~~which most adequately assures, to the extent feasible, on the~~  
6 ~~basis of the best available evidence, that no employee will~~  
7 ~~suffer material impairment of health or functional capacity~~  
8 ~~even if such employee has regular exposure to the hazard dealt~~  
9 ~~with by such standard for the period of his working life.~~  
10 ~~Development of standards under this subsection shall be based~~  
11 ~~upon research, demonstrations, experiments, and such other~~  
12 ~~information as may be appropriate. In addition to the~~  
13 ~~attainment of the highest degree of health and safety~~  
14 ~~protection for the employee, other considerations shall be the~~  
15 ~~latest available scientific data in the field, the feasibility~~  
16 ~~of the standards, and experience gained under this and other~~  
17 ~~health and safety laws. Whenever practicable, the standard~~  
18 ~~promulgated shall be expressed in terms of objective criteria~~  
19 ~~and of the performance desired.~~

20 (Source: P.A. 87-245.)".